

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re

4921 12th Avenue LLC,

Debtor.

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Case No. 18-47256-CEC

Chapter 11

ORDER DENYING APPLICATION FOR ORDER TO SHOW CAUSE

WHEREAS, on December 20, 2018, 4921 12th Avenue LLC (the “Debtor”) filed a voluntary petition under Chapter 11 of the Bankruptcy Code; and

WHEREAS, on March 15, 2019, the Debtor filed an application for an order to show cause seeking an order (1) determining that Galster Funding, LLC (“Galster”) violated the automatic stay under § 362(a) by continuing a pre-petition action pending in the Supreme Court of New York, Kings County (the “Galster Action”) against the Debtor and Yehuda Salamon, the Debtor’s principal, and others; (2) awarding actual and punitive damages; and (3) staying the Galster Action pursuant to 105(a); and

WHEREAS, “[a] suit against a codefendant is not automatically stayed by the debtor’s bankruptcy filing,” Queenie, Ltd. v. Nygard Int’l, 321 F.3d 282, 287 (2d Cir. 2003), see also Am. Film Techs., Inc. v. Taritero (Am. Film Techs., Inc.), 175 B.R. 847, 850 (Bankr. D. Del. 1994) (“The automatic stay affords protection only to debtors and does not extend to ‘co-tortfeasors,’ ‘joint obligors,’ ‘guarantors,’ ‘sureties,’ or other non-debtor ‘co-defendants.’”); and

WHEREAS, a court may stay an action against a non-debtor entity pursuant to 11 U.S.C. § 105(a), Queenie, 321 F.3d at 288; Am. Film Techs., 175 B.R. at 848, 855; and

WHEREAS, any request to stay an action against a non-debtor must be sought by the commencement of an adversary proceeding, see Fed. R. Bankr. P. 7001(7), In re Garnett, 47 B.R. 170, 171 (Bankr. E.D.N.Y. 1985);

NOW, THEREFORE, it is

ORDERED, that the application for an order to show cause is denied.

**Dated: Brooklyn, New York
March 18, 2019**





Carla E. Craig
United States Bankruptcy Judge